

# ***City Council Meeting Minutes***

**September 20, 2016  
City Hall, Council Chambers  
749 Main Street  
7:00 PM**

**Call to Order** – Mayor Muckle called the meeting to order at 7:00 p.m.

**Roll Call** was taken and the following members were present:

**City Council:**      ***Mayor Bob Muckle, Mayor Pro Tem Jeff Lipton, City Councilmembers Jay Keany, Chris Leh, Susan Loo, Dennis Maloney, and Ashley Stolzmann***

**Staff Present:**      ***Malcolm Fleming, City Manager  
Heather Balser, Deputy City Manager  
Aaron DeJong, Director of Economic Development  
Kurt Kowar, Director of Public Works  
Kevin Watson, Director of Finance  
Rob Zuccaro, Director of Planning & Building Safety  
Chris Neves, Director of Information Technology  
Beth Barrett, Director of Library & Museum Services  
Dave Hayes, Police Chief  
Kathleen Hix, Director of Human Resources  
Meredyth Muth, City Clerk***

**Others Present:**      ***Sam Light, City Attorney***

## **PLEDGE OF ALLEGIANCE**

All rose for the pledge of allegiance.

## **APPROVAL OF AGENDA**

Mayor Muckle called for changes to the agenda and hearing none, moved to approve the agenda, seconded by Councilmember Leh. All were in favor.

## **PUBLIC COMMENTS ON ITEMS NOT ON THE AGENDA**

None.

## **APPROVAL OF THE CONSENT AGENDA**

Mayor Muckle called for changes to the consent agenda. Councilmember Loo asked for changes to the September 6 minutes. Muckle moved to approve the consent agenda as amended, seconded by Councilmember Maloney. All were in favor.

- A.** Approval of Bills
- B.** Approval of Minutes: August 30, 2016; September 6, 2016
- C.** Approval of Interim Appointment of Monica Sheets to the Planning Commission
- D.** Resolution No. 45, Series 2016 – A Resolution Approving a Final Planned Unit Development Plan (PUD) to Construct a 30,000 Square Foot Industrial/Manufacturing Building with Associated Site Improvements on Lots 11 & 12, Block 3, CTC Filing 1
- E.** Award Bid for 2016 Crackseal Project
- F.** Approval of On Call Geographic Information System and Asset Management System Support Services with Invision GIS, LLC
- G.** Approve Short Street Reconstruction Change Order with H2 Development Services, LLC
- H.** Approval of Interim Appointment of Alison Gorsevski to the Board of Adjustment

## **COUNCIL INFORMATIONAL COMMENTS ON PERTINENT ITEMS NOT ON THE AGENDA**

None.

## **CITY MANAGER'S REPORT**

City Manager Fleming stated Xcel Energy will be replacing streetlights with new LED lights soon. This will only be for the cobra head streetlights, not the more decorative street lights. The City will realize a significant energy savings from the new lights.

He added that Burlington Northern Railroad will be closing South Boulder Road to repair the tracks sometime in the first week of October, but a specific time is not yet known. The closure should last about two days and the City will have to do some paving work at the location to repair the street from the rail disturbance. Staff is working to get the word out about the closure so drivers have time to plan alternate routes.

## **REGULAR BUSINESS**

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**PRESENTATION – 2016 GENERAL ELECTION –  
HILLARY HALL, BOULDER COUNTY CLERK & RECORDER**

Boulder County Clerk and Recorder Hillary Hall made a presentation regarding the upcoming election on November 8<sup>th</sup>. She gave residents some tips for the election:

- Check your registration to make sure it is current
- It is a mail ballot election, but in person voting is also available
- You can register to vote up to election day
- The ballots will be mailed October 17
- If you can, please return your ballot as early as possible.
- You can return your ballot by mail (\$.68), at a drop off location, or in a voter center

This will be the largest election in Boulder County history. Returning your ballot early will make the counting process easier. Of the mail ballots expected to be returned on November 8, almost 60% of those or approximately 32,000 come in after 5 p.m. Returning ballots earlier will make the county process much easier.

Ms. Hall noted there is a new 24-hour drop off location in Louisville at the Police Station and the drop off location at the Steinbaugh Pavilion will again be available this year.

**RESOLUTION NO. 46, SERIES 2016 – A RESOLUTION APPROVING A BUSINESS ASSISTANCE AGREEMENT WITH MOLECULAR PRODUCTS, LLC FOR AN ECONOMIC DEVELOPMENT PROJECT IN THE CITY OF LOUISVILLE**

Economic Development Director Aaron DeJong stated this Business Assistance Agreement with Molecular Products, which is a Boulder-based business looking to open a new facility, would create an estimated 25 jobs initially, moving up to 50-60 positions within five years. The positions would pay wages significantly higher than the Boulder County average wage. The proposed incentives are a 50% rebate of building permit fees and a 50% rebate of construction use tax estimated to equal \$5000 and capped at \$10,000. The company is looking at locations both domestically and internationally.

Director DeJong stated the proposed package meets the goals of the business assistance program with the expansion of jobs, job diversity, and it conforms to the comprehensive plan.

Ted Telford representing Molecular Products spoke noting the company is looking at a variety of locations.

Public Comments: None.

Councilmember Loo moved to approve Resolution No. 46, Series 2016. Councilmember Keany seconded the motion. Roll call vote, all were in favor.

**DISCUSSION/DIRECTION – POSSIBLE TERM LIMITS FOR BOARD AND COMMISSION MEMBERS AND MEMBERS OF THE LOUISVILLE REVITALIZATION COMMISSION**

City Clerk Muth stated this is a discussion of possible term limits for board and commission members. The initial draft ordinance would establish a limit of two terms for each board member except for Planning Commission members who would be limited to 12 years (which equals two of the Commission's 6-year terms). She noted the Council would need to determine how many years or terms a person is required to sit out before he/she is eligible for reappointment.

**Public Comment**

Mark Persichetti, 1402 Taft Place, member of the Sustainability Advisory Board since 2004 suggested the ordinance is not necessary to broaden opportunities for public service. The existing decision making process gives the Council the option to not reappoint a person. He stated he does not feel he is entitled to be reappointed and the Council can appoint or reappoint as appropriate. If Council does feel the need to pass this, he suggested members should be required to sit out one year to be eligible for reappointment.

Tom Tenneson, 775 Owl Court, member of the Local Licensing Authority (LLA), agreed with the previous speaker. He stated most members of the Licensing Authority sit for an average of seven years. The LLA has two long-serving members and without them the board would lose the continuity that is fundamentally important to the LLA. Council can always deny reappointment to anyone. The current system is more flexible and works.

Councilmember Leh stated he is against term limits for a variety of reasons. It is important to retain good board members with knowledge and institutional history. Having term limits makes it easy for the City Council to not reappoint someone, but the Council really should take the board appointment process seriously appointing the best possible people regardless of how long they have served. The Council needs to make the tough decisions when it is necessary. For some boards and commissions it is absolutely essential to have institutional knowledge. Term limits create an artificial reason to not appoint someone to a board. If someone engages in malfeasance we can remove them, but there is no reason to remove someone just for having served a certain number of years. The Council should set a clear expectation that members are not guaranteed reappointment and should base each reappointment decision on the person's merits not number of years.

Councilmember Leh noted that if term limits are created he strongly encouraged the Board of Adjustment, the Building Code Board of Appeals, the Planning Commission, the Revitalization Commission, and the Historical Commission not be included.

Councilmember Leh added it would be disrespectful to those board members who have served long and hard, and with distinction, to dismiss them due to an artificial limitation.

Councilmember Stolzmann stated her strong support for term limits because it creates broader community engagement. Members of boards serve the Council but also then promote ideas and civic engagement among their friends and neighbors. Members both give ideas to the Council and take information back to the community. Having more members would limit the “echo chamber effect” where we get in a rut and don’t take in account different perspectives. Historically, the Council doesn’t look at new candidates fully but rather generally reappoints existing members.

Councilmember Stolzmann stated that if we don’t have term limits the Council should rethink the board application process so new applicants are given full consideration against reapplying members.

Councilmember Stolzmann stated technical expertise and continuity comes from City staff not by board members. The role of a board member is to represent what citizens want, not technical expertise. Members can learn new processes and come up to speed and serve on any board. If institutional knowledge is needed, members can look at the record. If people are term limited they can continue to be engaged in the process without being a voting board member.

Councilmember Stolzmann stated the Library Board of Trustees would be willing to reduce their terms from five years to three years.

Councilmember Loo said all that is required is Council to not reappoint members if there are better applicants. She agreed with Councilmember Leh’s comments. Regarding the technical knowledge, she stated boards really do need members with technical experience for the quasi-judicial committees. It takes a long time to really understand the process and the applications. Members who do not understand the details and understand how to apply the criteria may rely too heavily on staff and can rubber stamp items. What we are looking for from boards is an outside perspective on items, not a rubber stamp. She stated each Councilmember should agree to make the hard decision when reappointments come up.

Councilmember Maloney stated term limits would help broaden community involvement. He feels members can come up to speed quickly on topics, and getting broader engagement from residents would be a great boon. Many people don’t apply to boards because they see everyone reappointed each year. He stated the Golf Course Advisory Board supports term limits.

Councilmember Loo stated in her five years she has seen some commissions on which everyone wants to serve and they get many more applicants than needed. Other boards frequently have vacancies that cannot be filled. Term limits would make it even harder to fill those positions.

Councilmember Keany noted he sees some benefit to having more turn over, but that can happen without term limits if Council would have the fortitude to not reappoint people when it is appropriate. On the other hand, there are times when there are not enough applicants for some boards and frequently the Council has appointed people to a board to which they did not apply and that has not turned out well.

Councilmember Keany sees benefit to both arguments. Perhaps the Council needs to make more conscious decisions at reappointment time, if we are not willing to do that, term limits will force our hands. He stated the Youth Advisory Board should be excluded as they can serve from 7- 12 grade and should be allowed to serve that entire time if they are interested, but this makes the Council pick and choose to which boards it applies and that is messy. Perhaps the Council should put off this discussion for a year and see how the next appointment process goes. We should appoint the best people for the job not just people who are already serving.

English Hopkins, 855 West Dillon Road, on the Parks and Public Landscaping Board, stated one advantage to having term limits is it creates a sense of urgency for the member to focus on their participation and contribute to the board.

John Leary, 1116 LaFarge Avenue, stated he has sat in on many board interviews and he thinks incumbency is weighted much higher than the qualifications of those who apply. Council does not have a history of making tough decisions when needed.

Mayor Pro Tem Lipton stated his experience is that members work hard to do their best for the community. He was not reappointed to the Planning Commission once for political reasons and it was hurtful. He knows that for those who are not reappointed it can be a difficult experience, but he stated automatic removal from a board is a loss of a great resource. He stated he agreed with arguments on both sides and sees strengths and weaknesses. He wonders what the unintended consequences might be. He noted future Councils can change this if the process is not working. He stated we do need more turnover for certain boards, but this may not be the best way to do this. He agreed incumbents have gotten preference from the Council in the reappointment process.

Councilmember Leh added he thinks this is a solution in search of a problem. The answer to this is already in Council's hands. This discussion alone will pressure the Council to think more actively about who is appointed and who might bring something new to a board. The Council can do everything that is proposed without the ordinance, but can't do everything we do now if term limits apply. Future Councils can impose this if we aren't doing a good job.

Councilmember Leh noted many residents on boards have been here much longer than staff members and are the institutional knowledge. He added no one serves in perpetuity unless Council allows it. He stated the City gets a lot of applications each year and it is up to Council to get the appropriate turn over on the boards.

Sherry Sommer, 910 South Palisade Court, asked what are the criteria the Council uses to reappoint someone.

Mayor Muckle suggested tabling the issue for this year. He stated if there are people who are not contributing to a board they should not be reappointed. The Council can be clear with applicants that they may not be reappointed and we want new members on boards who bring new perspectives. There is a way to move it forward and get turnover without imposing term limits. He challenged the Council to achieve this goal without imposing term limits.

Councilmember Stolzmann suggested changes to the appointment process: televising the interviews and deliberations, competency questions for technical boards, questions determined ahead of time, scoring criteria, and 15-minute interviews. These changes would hold the Council to a higher standard.

Councilmember Leh agreed this is the answer. He stated the Council should make clearer what appointment expectations are.

Councilmember Loo stated televising is not a good idea as it will intimidate many applicants. It would make the process uncondusive to getting a wide range of people and limit the number of applicants. People are already nervous about the interview.

Councilmember Keany stated standardizing questions and a scoring sheet would be good. He agreed televising the interviews might be intimidating to applicants. He stated it is hard to judge competency in an interview. Someone might not interview well but be more than competent and function well on a board.

Tom Tenneson noted on his appointment to the Local Licensing Authority he was given a huge book to understand what they do. It was with the help of existing members that he developed the competency and a proficiency that makes him a good member now. He stated it would be ill-advised to try to judge competency in an interview setting.

Councilmember Maloney stated it doesn't sound like there is support for this for this year, but gaining broader involvement would be really good. We should be better at looking at all applications and giving them an honest shot.

Mayor Muckle asked staff to work a scoring sheet and interview questions stating he would help in that endeavor.

Councilmember Keany wondered if all reapplicants should be asked "why should we reappoint you?" as a way to get better information.

## **ESTABLISHING AN IMPACT FEE LIAISON COMMITTEE AND APPOINTMENT OF COMMITTEE MEMBERS**

**1. RESOLUTION NO. 47, SERIES 2016 – A RESOLUTION ESTABLISHING AN IMPACT FEE LIAISON COMMITTEE TO PROVIDE ADVISORY RECOMMENDATIONS TO CITY COUNCIL REGARDING CHAPTER 3.18 OF THE LOUISVILLE MUNICIPAL CODE AND THE ADOPTION OF AN UPDATED SCHEDULE OF DEVELOPMENT IMPACT FEES FOR CITY CAPITAL FACILITIES**

**2. APPOINTMENT OF MEMBERS TO IMPACT FEE COMMITTEE**

Mayor Muckle stated the City reevaluates impact fees every five years to determine if the fees we are charging are defensible and reasonable. This process will form a task force to advise Council on the fees and if they need to be adjusted. The suggested list of task force members was created by the Mayor and Councilmember Maloney with staff help.

Councilmember Loo noted Councilmember Maloney needs to be added to the list of members as the Council liaison to the Committee.

No public comment.

Mayor Muckle moved to approve Resolution No. 47, seconded by Councilmember Keany. All in favor.

Mayor Muckle moved to approve the list of members adding Councilmember Maloney as the chair of the committee. Councilmember Keany seconded.

City Attorney Light noted that if Councilmember Maloney is to be added as a voting member, the previous resolution must be amended to change the number of members from eight to nine. Councilmember Stolzmann made a motion to reconsider Resolution 47, seconded by Mayor Muckle. Mayor Muckle moved to amend Resolution No. 47 to change it to nine members, seconded by Councilmember Keany. All in favor.

Mayor Muckle moved to approve the list of committee members with Councilmember Maloney to be the chair. Councilmember Keany seconded. All in favor.

*Councilmember Loo left the room.*

**APPOINTMENT OF PRESIDING MUNICIPAL JUDGE**

Councilmember Leh stated the Legal Review Committee has worked to recruit, interview, and recommend someone to fill the current vacancy of the Presiding Municipal Judge in the Louisville Court since the June retirement of Judge Bruce Joss.

The Committee vetted 13 applicants for the position, all well qualified. The committee narrowed it down to Kristan Wheeler who is currently an associate judge in other



municipalities. The group found her to be an excellent candidate, her references spoke glowingly about her willingness to work cooperatively, to manage her docket, and she would be a great person to be the face of Louisville in our court. The Committee unanimously recommends Judge Wheeler for the position for the salary noted in the Louisville Municipal Code (\$31,200 annually).

Attorney Light proposed a motion to appoint Kristan Wheeler as presiding municipal judge to a term commencing on October 4, 2016 and expiring January 2, 2018 and authorizing the Mayor to sign the agreement for municipal judge services. Muckle so moved, seconded by Mayor Pro Tem Lipton. Roll call vote, all in favor (Councilmember Loo absent.)

### **PRESENTATION – CITY MANAGER’S PROPOSED 2017 – 2018 BUDGET AND 2017 – 2021 CAPITAL IMPROVEMENTS PLAN**

City Manager Fleming noted this is the first biennial budget from staff. The City Charter does require an annual budget and this process will allow for approving the two annual budgets separately. He went over what sections and items are included in the proposed budget. He noted the program area information shows how each program is funded and what the proposed expenditures are. He added the Capital Improvement Plan sheets have been updated to match the proposed budget information.

*Councilmember Loo returned to the room.*

City Manager Fleming noted the budget priorities (capital project; public safety; open space, parks, and streetscapes; and support services) in the budget. He added the proposal includes new staff positions in a number of departments and maintains reserves of above 20% at least through 2018.

He stated that in later meetings revenue assumptions, expenditure targets, and subprogram level revenue and expenditures will be included. At this time this information is not available from our new software system.

He asked what other information the Council would like to see at future meetings adding each meeting will focus on specific programs. The final public hearing is scheduled for October 18 with adoption anticipated on November 1.

Councilmember Loo stated the Parks board did not request an administrative assistant but rather a program manager similar to the open space manager position.

Mayor Pro Tem Lipton noted his concern regarding the order of magnitude of increase in the budget. He sees a 16% increase over two years. He worries that the cumulative effect is a very large increase. He would like confirmation of what the cumulative effect is. He feels the presentation is very transparent.

Mayor Muckle noted his concern regarding hiring staff positions if we can't afford to keep them in the long-term.

#### Public Comments

Deb Fahey, 1118 West Enclave Circle, stated her concern the top two priorities of the citizen survey were addressed but the third priority, sustainability, is not even mentioned.

John Leary, 1116 Lafarge Avenue, asked how fees that are waived, such as business assistance and building fee waivers, are covered. He suggested some areas of historic preservation are mandatory not voluntary. He feels it is not clear in the budget that any items from the Small Area Plan will ever be funded or completed. He added that if the Citizen Survey is being used as an annual metric it will need to be completed more than every four years. He would like to see more budgeted for tree replacement due to the Emerald Ash Borer infestation.

Councilmember Stolzmann stated the Finance Committee has been studying the golf fund loan from the wastewater fund and what options there are for repayment. She noted some alternatives include having the general fund repay the wastewater fund and reevaluating the loan payment schedule or no longer keeping the golf fund as an enterprise fund. Once the Committee has more information the members will make a specific recommendation.

The next budget meeting will be September 27 to discuss Transportation, Public Safety and Justice.

City Manager Fleming noted for the 2018 budget there will only be updates to this proposal before approval in November of 2017. It will be a much more streamlined process as part of the biennial process.

#### **SET MEETING TIME FOR OCTOBER 4 CITY COUNCIL MEETING**

Mayor Muckle noted the need for an executive session on October 4. Would Council like to have the executive session at 6 pm or after the regular items.

Mayor Muckle moved that a special meeting be called for October 4 at 6:00 pm for an executive session. Councilmember Keany seconded. All in favor.

#### **EXECUTIVE SESSION – PERSONNEL MATTERS**

Attorney Light stated the Mayor is requesting the City Council convene an executive session for the purposes of discussion of personnel matters.

City Clerk Muth read Section 2.90.050, the public statement from the Louisville Municipal Code, governing the topics that may be discussed in an executive session.

City Attorney Light stated the authority for conducting an Executive Session is the Louisville Code of Ethics, Section 5-2(b), CRS 24-6-402(4)(f). The matter does not concern any employee who has asked for a discussion of a matter in open session, nor any member of this body or any elected official, or the appointment of any person to fill a position on this body or of an elected official, nor does it concern personnel policies that require discussion of matters personal to particular employees.

MOTION: Mayor Muckle moved the City Council convene an executive session for the purpose of discussion of personnel matters for informational purposes only, the executive session to include members of the City Council, the City Manager, the Human Resources Director, the Deputy City Manager, and the City Attorney, seconded by Councilmember Keany. All in favor. The Council adjourned to executive session at 9:30 p.m.

The meeting reconvened at 11:00 p.m.

#### **REPORT – DISCUSSION/DIRECTION/ACTION – PERSONNEL MATTERS**

City Attorney Light reported on the executive session, he stated the executive session was requested by the Mayor for the discussion of personnel matters as authorized by the City Charter for informational purposes only. No further report.

#### **CITY ATTORNEY'S REPORT**

No report.

#### **COUNCIL COMMENTS, COMMITTEE REPORTS, AND IDENTIFICATION OF FUTURE AGENDA ITEMS**

No items.

#### **ADJOURN**

MOTION: Mayor Muckle moved for adjournment, seconded by Councilmember Stolzmann All were in favor. The meeting was adjourned at 11:03 p.m.

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Jeff Lipton, Mayor Pro Tem

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Meredyth Muth, City Clerk